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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,088	10/28/2003	Hitoshi Satoh	ZUIKP0109US	4159

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EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,088

Applicant(s)

SATO, HITOSHI

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-19 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 7, 13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Boothe et al for the same reasons as expressed in paragraph 2 of the Office action dated 6-15-06.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3, 7-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boothe et al in view of Ujimoto et al for the same reasons as expressed in paragraph 4 of the Office action dated 6-15-06.
5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 4 further taken with Beaudoin et al and Ales et al for the same reasons as expressed in paragraph 5 of the Office action dated 6-15-06.

Allowable Subject Matter

6. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant is referred to paragraph 8 of the Office action dated 6-15-06 for a complete discussion of the same.

Response to Arguments

7. Applicant's arguments filed 9-29-06 have been fully considered but they are not persuasive.

The applicant argues the Boothe et al reference and takes the position that the reference did not anticipate the claimed invention because the reference did not teach or suggest that "when the elastic member striding over the first pad and the second pad is cut off, an interval between the first pad and the second pad is shortened so as to reduce a shrinking force of a portion of the elastic member between the first pad and the second pad". This is not well taken.

Boothe suggested that the transfer pads were accelerated from the point of cut off to the point of lay down and then maintained at a higher velocity at the point of lay down of the elastic (in Figure 1 of Boothe et al this is at 180 degrees from the cut off location in Figure 1). Between the lay down and the point of cutting (between after 180 degrees and 360 degrees in the rotation of the pad member), the pad member must be decelerated in order to achieve the reduction in velocity between the speed of the elastic and the speed of the web onto which the elastic was applied. During the movement between the high speed and the low speed the gap between the transfer members is reduced to the point where the pads appear to come in contact (as depicted in Figure 1). Meanwhile, the elastic is running along a tangent of the surface of the next arriving pad and contacts the same prior to the cut off (as depicted in Figure 1). Clearly,

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the gap is closed or shortened between the first pad and the second pad when the cutting operation is taking place. It should be noted that the claim does NOT expressly recite that there is a gap present during the cutting operation and in fact claim 19 does not require the shrinking force to be reduced (claim 19 merely recites that the cutting step is performed "after an interval between the first pad and the second pad is shortened" which clearly takes place in Boothe. Thus claim 19 is clearly not commensurate in scope with the applicant's arguments. Additionally, claim 1 is an apparatus claim and the material worked upon (the elastic) is of no patentable weight in the operation. The device is clearly capable of shortening the interval between the pads and is additionally therefore capable of reduction in the shrinking force (since this is a function of the reduction in the gap between the pads as the elastic is disposed over the same). As such, the apparatus claims are likewise anticipated by the teachings of Boothe. It should be noted that the shortening of the gap appears to take place while the second transfer member is in contact with the elastic as the elastic is disposed along the surface of the same prior to the cutting operation and thus the reduction in the shrinking force is deemed to be suggested by the reference.

As depicted in Figure 1A of the disclosure herein, the elastic rides over the surface of the second transfer member as the gap is shortened in much the same way that the transfer member in Boothe et al acts on the elastic as the second member is brought toward the first member prior to the cutting operation. While the drawing depicts that the cutting take place where the edges of the transfer members meet in Boothe et al, the claims at hand do not require the presence of a gap during the cutting operation

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only that the gap is shortened which was clearly envisioned by Boothe. The applicant emphasized that the transfer segments were touching each other when the cutter cuts the elastic and prior to the same, however there is ample evidence that the gap between the segments must have been shortened just prior to the cutting operation as the transfer member was decelerated to the speed of the elastic travel from the speed of the web. Additionally, while the reference taught an increase in speed from the location of cutting to the point of transfer, the reference must also teach a deceleration from the point of elastic lay down to the point of elastic pick up (where the cutter is located). This shortened the gap between transfer members. As is clear from Figure 3 there is deceleration between about 270 degrees and 360 degrees the slope of the curve is negative which represents acceleration (in this case deceleration). The claims at hand do not require deceleration just prior and through the cutting operation and additionally do not require that a gap or interval be present during the cutting operation. Again the claims are not commensurate in scope with the arguments.

The applicant does not address the references to Ujimoto et al, Beaudoin et al and Ales et al other than to state that these references do not cure the deficiencies of Boothe. As noted above there are no deficiencies in Boothe et al. It is therefore asserted that applicant agrees with the Office interpretation of these references for what they were applied for and the reasoning as to why the teachings of the references would have been combined.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
October 31, 2006